

OGC Has Reviewed

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3 September 1947

MEMORANDUM FOR

Subject:

We have reviewed your memorandum of 22 August 1947 which sets forth in detail the circumstances of [REDACTED] of 3 July 1946. On the facts presented therein there is a probable failure of performance on the part of the individual who contracted with the Government. From what is known at this time however, we are of the opinion that there is not a clear breach of contract which would enable us to take final action at this time. If the breach were clear-cut and final, we could offset any money due the Government against any Government indebtedness to the individual. If this were done now however, it is not improbable that the individual could later turn up with proof that any delay had been due to circumstances beyond his control, and that he had performed all the terms of the contract insofar as he was able, and had produced material of value to us. If these facts were shown, it would be necessary to reopen the whole case, and it might be difficult to say that he was not entitled to the full consideration promised in the contract. In this connection, we believe word has finally arrived from the individual from the post designated in this project, so it is possible that he is still trying to perform.

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Our suggestion, therefore, is to have [REDACTED] deposit the \$350 which he is holding as agent for the individual, with Special Funds, and to have Special Funds hold the project in suspense until required to close it out, or until the actual facts are established. In either of these eventualities, Special Funds could again submit the matter to this office for consideration in the light of facts presented by you.

LAWRENCE R. HOUSTON
General Counsel

LHM:emj